

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 12/4/2019 6:52:15 PM
To: Hurl, Kathy [Hurl.Kathy@epa.gov]; Wade, Alexis [Wade.Alexis@epa.gov]
Subject: FW: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups
Attachments: Non-Federal Designation State of Florida Draft Letter to NMFS- 12-4-19 mlh tpm SK KH2 sak (002).docx; Non-Federal Designation State of Florida Draft Letter to FDEP- 12-4-19 mlh tpm SK KH2 sak.docx

Kathy,

Thanks for taking a crack. I think OGC leadership would probably prefer the language I drafted (though of course, I can't be certain), so perhaps when we send up we can put one version in the text and list the alternative language in a comment bubble. Alexis is working on edits now, so we can wait for those.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Hurl, Kathy <Hurl.Kathy@epa.gov>
Sent: Wednesday, December 4, 2019 1:45 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

So I tried to recraft see attached. Also looked to cut the footnote.

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Wednesday, December 04, 2019 1:39 PM
To: Hurl, Kathy <Hurl.Kathy@epa.gov>
Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

Hi Kathy,

Thanks for flagging your concerns about the edits to the FDEP letter. I took another look and, while I now see that it does duplicate some of the language in the subsequent paragraph, I think the caveats I provided are worth making. One possible solution would be to reorder the second and third paragraph to minimize duplication, though I defer to you as to whether that's a good idea. I am comfortable that the language I inserted is not predecisional. Anyway, happy to discuss. Thanks!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Hurl, Kathy <Hurl.Kathy@epa.gov>
Sent: Wednesday, December 4, 2019 10:35 AM
To: Kelly, Stephanie <kelly.stephanie@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; McGill, Thomas

<Mcgill.Thomas@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

I have edits on the most recent version Tom sent out. I have to admit I could not read the redline, so, I accepted all edits and then you will see my edits on this version. Sorry if I've confused things but I really could not track the redline version.

I do anticipate comments from Brian and John Goodin. We may get them by noon, we may not. We are trying to prep Dave for a quick review (John will meet with Dave on Tuesday – if his meeting is not cancelled for WOTUS). I know that is tight but..... - Kathy

From: Kelly, Stephanie <kelly.stephanie@epa.gov>
Sent: Wednesday, December 04, 2019 10:25 AM
To: Wade, Alexis <Wade.Alexis@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

I was also wondering the same thing.

From: Wade, Alexis <Wade.Alexis@epa.gov>
Sent: Wednesday, December 4, 2019 10:21 AM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

Question – are we not building in time for Dave, Matt, and David to see this?

Alexis Wade
Attorney-Adviser
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EPA Office of General Counsel
(202) 564-3273

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Wednesday, December 04, 2019 8:43 AM
To: McGill, Thomas <Mcgill.Thomas@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Calli, Rosemary

<Calli.Rosemary@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>

Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

I have edits I sent to my management. They are here in a clean version and a redline version. However, I expect comments from Brian today and will send those forward. Just letting you see what I sent to them. They know the deadline of noon, fingers crossed I get something back. - Kathy

From: McGill, Thomas <Mcgill.Thomas@epa.gov>

Sent: Tuesday, December 03, 2019 6:25 PM

To: McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>

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I incorporated most of Stephanie's edits and I also made edits based on comments I received from Jeaneanne. Also, as a follow-up to Matt's question during today's call, Jeaneanne confirmed that she and Leif Palmer spoke yesterday and he was comfortable with the path forward.

As a reminder, if you have any comments please share those by noon tomorrow as I've been directed to begin routing this for the RA's signature by COB tomorrow.

Thanks,

Tom

From: McDavit, Michael W. <Mcdavit.Michael@epa.gov>

Sent: Tuesday, December 3, 2019 3:12 PM

To: McGill, Thomas <Mcgill.Thomas@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>

Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

No comments.

Just a reminder that I recall from the recent briefing that there was a timing consideration, since the AA was hoping to get with CEQ before we took any action.

From: McGill, Thomas <Mcgill.Thomas@epa.gov>

Sent: Tuesday, December 03, 2019 1:26 PM

To: Calli, Rosemary <Calli.Rosemary@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks,

Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>

Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

As a follow-up to our discussion this morning, please see the revised attachments and target providing any comments by noon tomorrow. Thanks, Tom

From: McGill, Thomas

Sent: Tuesday, December 3, 2019 10:28 AM

To: Calli, Rosemary <Calli.Rosemary@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>

Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

Importance: High

Per the attachments, I made some further suggested edits of the letters. The RA's last day in the office is Dec 11, and she wishes to sign the letters before then. I've been directed to begin routing the letters by tomorrow, so if anyone has additional comments please plan to share those by noon tomorrow. We can discuss further during this morning's 11:00 call. Tom

From: Calli, Rosemary <Calli.Rosemary@epa.gov>

Sent: Wednesday, November 27, 2019 3:06 PM

To: Kelly, Stephanie <kelly.stephanie@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>

Subject: RE: Call for Edits/Inputs into Letter to FDEP, Letters to the Services and Email Transmittal Document to Higher Ups

Hello, all – Attached are markups of the FDEP letter (looking to retain key information but simplify overall) and NMFS letter (same would apply to FWS). I haven't marked up the draft email.

~ Rosemary

Rosemary (Hall) Calli

Section Chief, Wetlands & Streams Regulatory Section

Aquatic Ecotoxicologist

U.S. Environmental Protection Agency, Region IV

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Calli.Rosemary@epa.gov

From: Kelly, Stephanie <kelly.stephanie@epa.gov>

Sent: Wednesday, November 27, 2019 11:55 AM

To: Hurl, Kathy <Hurl.Kathy@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>

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Good Morning All,

I have attached for your review the letters to FDEP, to the Services and an email transmittal that has been drafted to be sent to Mary, Matt and Dave from John Goodin. The email transmittal sheds light on two issues that have been brought to light. In lieu of dealing with these issues, the draft letters to designates Florida DEP and the letters to the Services are at least ready to go when we receive guidance on how to proceed. Please note that the White papers are something that were given to the agency and we did not write them.

I hope everyone has a Happy Thanksgiving and safe travels if you are going somewhere!

Sincerely,

Stephanie

Stephanie Kelly | Physical Scientist | Program Development and Jurisdiction Branch
U.S. Environmental Protection Agency, Office of Water | 202-566-0890